

DOCKET NO. 16226
ISSUES THAT WERE NEITHER ARBITRATED NOR STIPULATED NOR
SUCCESSFULLY NEGOTIATED

<u>Agreement. In some cases specific Performance Criteria and/or data have been set forth in the Agreement. In other cases (e.g., unbundled Network Elements), the Parties have agreed jointly to define Performance Criteria by a date certain. In all cases the Parties have agreed to review the same three months after AT&T first purchases the associated service or function and that SWBT will not be held accountable for a Specified Performance Breach based on such Performance until after the three month review is completed.</u>	
ATTACHMENT 18: DAL - No Issues	
ATTACHMENT 19: WHITE PAGES - OTHER	
4.1	<u>AT&T will defend against all customer claims just as if AT&T had provided such service to its customer with AT&T's own employees and will assert its contractual or tariff limitation of liability, in any, for the benefit of both SWBT and AT&T.</u>
ATTACHMENT 20: CLEARINGHOUSE - No Issues	
ATTACHMENT 21: NUMBERING - No Issues	
ATTACHMENT 22: DA - FB - No Issues	
ATTACHMENT 23: OS - FB - No Issues	
ATTACHMENT 24: DEFINITIONS - NO NEGOTIATION, NO AGREEMENT	
ATTACHMENT 25: ACRONYMS NO NEGOTIATION, NO AGREEMENT	

NOTE: LANGUAGE PROPOSED BY SWBT DURING NEGOTIATIONS FOR ISSUES WHICH WERE NOT ARBITRATED AND NOT STIPULATED, WHICH LANGUAGE REFLECTED SIGNIFICANT AREAS OF DISAGREEMENT, WAS NOT INCLUDED IN THE DOCUMENT FILED BY AT&T. THIS SWBT PROPOSED LANGUAGE HAS NOT BEEN CAPTURED IN THIS DOCUMENT.

ATTACHMENT 12



Thomas C. Pelto
Chief Regulatory Counsel

March 21, 1997

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Ms. Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
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Austin, Texas 78711-3326

Re: Docket No. 16226

Dear Ms. Mueller:

This letter responds to the Status Report on development of real-time electronic interfaces filed by Southwestern Bell Telephone Company (SWBT) on March 17. Suffice to say that the Commission's March 5 clarification had minimal effect (actually, no perceptible effect at all) on SWBT's report on the status of implementation of electronic interfaces for unbundled network elements (UNE). About the only meaningful information conveyed by SWBT's scant filing on UNE interfaces is that either AT&T or SWBT continues to misapprehend the Commission's Arbitration Award as far as the requirements and due dates for cooperative development and testing of real-time electronic interfaces for UNEs are concerned. As a result, information on specific interfaces, functionality and order types for UNE continues to be completely missing from SWBT's March 17 status report.

To briefly frame the continuing controversy, paragraph 25 of the Arbitration Award requires that SWBT "provide real-time electronic interfaces that allow LSPs to perform preordering, ordering, provisioning, maintenance and repair, and billing for resale services *and* unbundled network elements." Thus, SWBT is required to develop real-time, electronic interfaces for the same or at least comparable interfaces, functionalities and order types for UNE (e.g. migration orders, "as is" and "with changes") as the Commission required for resale. That has been AT&T's interpretation of the Commission's Award and also appears to have been the Commission's consistent interpretation.¹

¹ The specific functionalities and order types for resale are set forth with particularity in AT&T Exh. 15A. What the Commission did not require was the same set of interim due dates for unbundled elements and therefore rejected AT&T's proposed contract language, because it would have incorporated those dates. The Commission did not, however, change its prior ruling to require 15A functionality for UNE.

However, as the parties were in the process of drafting the February 28 joint status report, SWBT informed AT&T of its belief that the Award did not require SWBT to develop real-time electronic interfaces for the same or comparable interfaces, functionalities and order types for UNE as were provided for resale. On this basis, SWBT declined to work with AT&T to develop a joint report that would address the specific interfaces, functions and order types being developed for UNE. Instead, the parties simply flagged the disagreement and corresponding need for clarification in the February 28 report.

Fortunately, the issue of electronic interfaces for UNE was specifically acknowledged by the Commission and discussed at some length at its March 5 Open Meeting. Unfortunately, despite the Commission's March 5 "clarification on the record" (Wood, 3/5 Tr. at 166), the requirements for UNE interfaces remain misperceived, or at best dimly perceived, by either AT&T or SWBT.² Consistent with the Award and the Commission's March 5 discussion, it remains AT&T's view that the joint implementation efforts and status reports for UNE interfaces should be at the same level of detail in terms of the specific interfaces, functionality and order types as is the case for resale interfaces. SWBT clearly disagrees and, as its March 17 report on UNE indicates, persists in its view that SWBT has no obligation to develop the same or comparable interfaces, functionalities and order types for UNE.

Because of the continuing disconnect on UNE interfaces,³ further clarification appears necessary.⁴ Otherwise, the divergent views will simply persist.

² On March 5, Chairman Wood stated his understanding that by June 1 "the provisioning, ordering and preordering [for] unbundled network elements would also be operational." Tr. at 165. And there was 3-0 concurrence with Mr. Siegel's view, on behalf of OPD, that "the award stated it needed to be real-time, electronic interfaces [with similar] intervals." Tr. at 165-66. Copies of the relevant transcript pages are attached.

³ Though there is no pun intended, SWBT's interpretation of the Award could be colored by its desire to disconnect customers served via UNE, even if no rearrangement of the physical serving arrangement is requested or necessary and where a purely software-based change is involved (as with migration orders involving the UNE platform).

⁴ AT&T apologizes for not having Ms. Dalton available on March 5, which could perhaps have helped crystalize the issue and avoid the continuing confusion. On the other hand, it is not completely clear whether SWBT has chosen to simply disregard the March 5 clarification, disagrees as to its effect, or both. In any event, Ms. Dalton will be available for the next posting of this item on March 26.

Ms. Paul Mueller

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March 21, 1997

In sum, a process of joint development and cooperative testing is best calculated to produce a soft landing on June 1 and a joint report on June 13 which indicates that real-time electronic interfaces for UNEs work and that the relevant functionality and order types are available. The alternative is a crash landing on June 1 where SWBT presents an incomplete set of UNE interfaces that have not been cooperatively developed or tested and which therefore lack critical functionality. Interfaces for UNE that are operational (*i.e.* work to support rapid, broad-based entry) on June 1 is certainly what the Commission has stated it wants, but without the requested further clarification, that result is substantially jeopardized because UNE interfaces that do not support the relevant set of order types that LSPs can use to move customers are virtually worthless.⁵

Sincerely,



Thomas C. Pelto
Chief Regulatory Counsel

cc: Ms. Kathleen Hamilton, Administrative Law Judge, PUC
Ms. Carole Vogel, Director, Office of Regulatory Affairs, PUC
Mr. Kevin Zarling, Assistant Director, Legal Division/ORR, PUC
Mr. Stephen Davis, Director, Office of Policy Development, PUC
Mr. Howard Siegel, Chief Attorney, Office of Policy Development, PUC
Mr. Bill Magness, Chief Counsel, Office of Policy Development, PUC
All Parties of Record to Consolidated arbitration proceedings (facsimile)

⁵ If SWBT is not required to work cooperatively with AT&T and other LSPs on the UNE interfaces, then the situation with EASE on the resale side will likely repeat itself, or worse. SWBT will unilaterally develop non-industry standard, proprietary interfaces, with missing or incomplete functionality. Moreover, bearing in mind SWBT's attempts to thwart UNE competition at every level (*e.g.* the licensing provision) and its tendency to spring last-minute surprises (*e.g.* new found non-recurring charges), the opportunities for mischief with the UNE interfaces are immense and the consequences drastic -- LSPs will not be able to provide service to Texans using the UNE platform if they cannot pass migration orders. Of course, SWBT would prefer not only that the fox guard the henhouse, but also that it warm the eggs and herd the hatchlings.

1 MR. SIEGEL: For the record,
2 this is Howard Siegel, Office of Policy
3 Development.

4 The main problem here is that
5 there is -- there appears to be an
6 ambiguity or potential ambiguity in the
7 arbitration award. We use the language "to
8 the same interval Southwestern Bell
9 performs for itself," and AT&T says you
10 should treat unbundled the same kind of
11 intervals that resale has, and Southwestern
12 Bell's response is -- appears to be that
13 they don't do unbundled elements for
14 themselves and, therefore, the same
15 intervals don't exist.

16 COMM. WALSH: Never is a
17 good time?

18 (Laughter)

19 MR. SIEGEL: My
20 understanding of the intent of the award
21 was to require the same time periods that
22 were being required for resale and that
23 similar intervals were applicable, but that
24 seems to be the one policy issue that the
25 parties disagree on and are having

1 difficulty. Outside of that there appears
2 to be a lot of cooperation between the
3 parties and the rest of the operational
4 interfaces.

5 CHAIRMAN WOOD: I mean : --
6 I'm not sure if it was exactly the same as
7 resale or not, but Exhibit 15 A or
8 whatever, Nancy Dalton's exhibit -- I don't
9 remember what it was; it had a life of its
10 own -- had a chart. And there were a lot
11 of dates on that chart. And it seemed to
12 me the reason why we did the checkup
13 hearing on June 13th was that not only were
14 the resale things, most of which were front
15 loaded this month and last month and in
16 January were going to be done, was that the
17 provisioning and ordering and reordering
18 issues under unbundled network elements
19 would also be operational. And so I don't
20 know if any clarification of the award is
21 needed, but, I mean, this deal has got to
22 work. It can't be done by FAX and phone.

23 MR. SIEGEL: And the award
24 stated it needed to be real time,
25 electronic interfaces, and I think that

1 implies the quick time intervals that are
2 necessary.

3 COMM. WALSH: Do we need to
4 do anything?

5 CHAIRMAN WOOD: Do we need
6 to clarify that somehow?

7 MR. SIEGEL: I don't think
8 so. If the Commission wants to state that
9 their interpretation of the award, that
10 generally the award stands for itself --

11 CHAIRMAN WOOD: And we just
12 clarified that on the record --

13 COMM. GEE: Yeah.

14 CHAIRMAN WOOD: -- with
15 three nods.

16 Anything else on this?

17 Again I appreciate -- to me this
18 is back of the tone of the original
19 hearing, at least as to AT&T and Bell on
20 the original hearing back in October. I
21 appreciate that personally. I think I
22 speak for the three of us saying we hope
23 you both want to get into each other's
24 business as bad as your marketing people
25 say that you do on TV. I think that the

ATTACHMENT 13



Thomas C. Peltz
Chief Regulatory Counsel

April 7, 1997

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Ms. Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
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Austin, Texas 78711-3326

Re: Docket No. 16226

Dear Ms. Mueller:

This letter responds to SWBT's April 1 letter, in which SWBT contends that AT&T: (1) "mischaracterized" the status of electronic interfaces for UNE; and (2) "collaterally attacks" the Arbitration Award. Perhaps remarkably, given the unflattering characterization, AT&T actually agrees with much of what SWBT says, it is the innuendo, inferences and insinuations with which AT&T takes issue.

First, AT&T agrees that SWBT's March 17 report contained "the identical information [from the] Joint Report that was filed only two weeks prior to the March status report." SWBT 4/1 Letter, at 2 n. 2. That is precisely the problem!¹

Second, AT&T further agrees, as its March 21 letter plainly indicated, that the Commission chose *not* to require the same set of *implementation dates* for UNE interfaces as it had for resale, and therefore rejected AT&T's proposed contract language. *See* AT&T 3/21 letter, at 1 n. 1. For some reason SWBT disregards this subtlety, because all of its Attachment A "Excerpts" have to do with the now-extraneous issue of implementation dates. The debate which remains is over the required *order types and functionality*.

Third, AT&T agrees that it had "much more to say regarding [UNE] interfaces [on February 28]." SWBT 4/1 letter at 2 n. 2. However, it was neither "neglect," nor "fear" that precluded AT&T from saying more about UNE functionality in the Joint Report, but SWBT's unwillingness to include such information. AT&T confronted a Hobson's choice to be sure: stand mute; or fail to comply with the Order directing the filing of a "Joint" Report. AT&T simply chose the less repugnant of two undesirable choices and succumbed to SWBT's veto.

Thus, the Joint Report provided that for "UNE, there is *minimal detail* included in the area of ordering and provisioning." 2/28 Joint Report, at 1 (emphasis added). A trifling semantic quarrel over "minimal detail" or "completely missing" should not obscure the overriding issue regarding UNE functionality.

¹ AT&T would *not* have been surprised if SWBT had reported that nothing was being developed for several of the order types and much of the functionality for UNE (which may explain SWBT's impassioned resistance), but AT&T was surprised to see not even nothing reported.

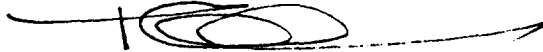
Ms. Paula Muel.
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April 7, 1997

Fourth, AT&T also agrees that its goal is to compete in SWBT's markets. SWBT 4/1 letter at 3. That is not news. Nor has AT&T been secretive about its desire to have working interfaces for UNE. If anything, the clarification that AT&T is seeking and, more importantly, actual development of the required UNE functionality, should actually hasten the day when SWBT will be able to demonstrate full compliance with Section 271 and enter the long distance market. Thus, while *advancing* SWBT's long distance entry is certainly not the motivating force behind AT&T's desire to be able to electronically process UNE platform orders, accelerating development of the necessary interfaces would certainly be a poor *delaying* tactic.²

Fifth, AT&T agrees that it probably would be a good idea for the Commission to attend one of SWBT's LSP seminars. SWBT 4/1 letter at 4. If it does, however, the Commission should ask: what order types and functionalities are being developed for UNE; how SWBT is going to handle UNE migration orders where no rearrangement of the customer's serving arrangement is involved; how rapidly SWBT will process UNE orders where only a software change is necessary; and when SWBT plans to have this functionality available. AT&T cannot get straight answers to these questions, but perhaps the Commission can.

Finally, AT&T must disagree that it is attempting a "collateral attack" on the Commission's Award.³ Rather, AT&T is simply, and singularly, trying to clarify what the Commission ordered in the first instance regarding UNE functionality, the same as it was on February 28 (and as the Commission appeared to have done on March 5). Unfortunately, the only thing that has become clearer is the need for further clarification.

Sincerely,



Thomas C. Pelto
Chief Regulatory Counsel

cc: ALJ, ORA, OPD and All Parties of Record

² On the other hand, if the Commission does not clarify that AT&T 15A functionality is required for UNE, then it is fairly clear that June 1 will arrive, the dispute will not have been resolved, critical functionality will be missing and further arbitration will likely be required (because, as SWBT's letter acknowledges, either AT&T-15A functionality applies to UNE, or the issue was not decided). That scenario is much more likely to delay SWBT's long distance entry than would clarifying the issue, developing the functionality, and getting on down the road.

³ AT&T also disagrees with SWBT's characterization of the current implementation negotiations, but because these points are extraneous for purposes of resolving the current issue, AT&T will spare the Commission its response in this letter, with two exceptions. *First*, contrary to SWBT's assertions, AT&T absolutely prefers CABS billing for UNE. SWBT 4/1 letter at 3-4 n. 4. AT&T did suggest it could look at relaxing the CABS requirement if this would avoid SWBT's unexplained insistence that it disconnect every single UNE customer, including UNE platform customers, where absolutely no rearrangement of physical facilities is necessary. SWBT indicated that, even if the CABS requirement for billing was relaxed, it would still prefer to disconnect all UNE customers and that ended the discussion. *Second*, SWBT's characterization of AT&T's proposed manual UNE trial involving AT&T employees is especially astonishing (SWBT 4/1 letter at 2), given SWBT's refusal to allow it, purportedly because AT&T does not yet have a COA. Coincidentally, or perhaps not, on April 2, the day after its April 1 letter, SWBT suddenly relaxed its position on the manual trial and now appears to agree with AT&T that such a trial would not require a COA.

ATTACHMENT 14



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April 25, 1997

Ms. Paula Mueller
Secretary of the Commission
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Re: Docket No. 16226

Dear Ms. Mueller:

SWBT's April 16 filing on electronic interfaces is *deja vu* all over again. Mimicking its approach to production of cost information in the arbitration, SWBT first provided *too little* information on the status of UNE interfaces (February 28 and March 17), then it provided *too much* information (April 16), but in neither case has it provided the right information.

AT&T has seen this movie and knows how it ends -- delay -- when the necessary information is finally provided *too late* for AT&T, other LSPs or the Commission to remedy the situation, except to order an interim solution and establish supplemental proceedings. The good news, however, is that this time it is not too late to avoid unnecessary delay with respect to UNE interfaces, if that becomes the mutual objective of the parties. Unfortunately, that is also the bad news, because electronic interfaces for the UNE platform do not appear to be part of SWBT's present game plan.

At the risk of being redundant,¹ the required order types for TSR (as set forth in AT&T Exh. 15A) are precisely what AT&T has requested for the UNE platform: no more, but also no less.² In other words, "POTS Ordering & Provisioning" functionality, with migration order capabilities, both "As Is" and

¹ See AT&T letters to Paula Mueller dated March 21 and April 7, previously filed in this docket.

² SWBT's letter suggests that it is for AT&T's benefit that it has provided detailed information on the interfaces it has developed for the loop, switch port and interim number portability (INP). While AT&T applauds the additional information regarding EDI interfaces for loops, switch ports and INP provided by SWBT, it is UNE combination functionality that will be most critical initially.

Ms. Paula Mueller

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April 25, 1997

"With Change," are what AT&T requested for UNE and was awarded in arbitration, with the same intervals as for these types of resale orders. *See* Mar. 5, 1997 Tr. at 164-66. Unfortunately, "POTS" functionality and "migration" order types, the specific issue AT&T has twice raised with respect to SWBT's March 17 report, remain missing from SWBT's April 16 report.

In any event, in an attempt to remove all doubt as to exactly what it has been requesting and expecting to see for UNE, based on the Commission's Arbitration Award and the Commission's March 5 clarification, AT&T has attached a proposed UNE Report Format for use in the May 15 report. In addition to providing SWBT with a copy of this letter, AT&T commits to get together with the appropriate SWBT personnel, determine whether there can be agreement on this proposed reporting format, and, if so, work with SWBT to produce another joint report on May 15.

AT&T further commits to report to the Commission on the results of these discussions. To that end, AT&T respectfully requests that this matter be posted for discussion by the Commission on May 6, so that hopefully, any lingering dispute (or malingering dispute, as the case may be) can be resolved, once and for all.

Sincerely,

Thomas C. Pelto
Chief Regulatory Counsel

Attachment

cc: Mr. Pat Wood, III, Chairman, PUC
Mr. Robert Gee, Commissioner, PUC
Ms. Judy Walsh, Commissioner, PUC
Ms. Kathleen Hamilton, Administrative Law Judge, PUC
Ms. Carole Vogel, Director, Office of Regulatory Affairs, PUC
Mr. Stephen Davis, Director, Office of Policy Development, PUC
Mr. Howard Siegel, Chief Attorney, Office of Policy Development, PUC
Mr. Kevin Zarling, Assistant Director, Legal Division/ORR, PUC
Mr. Bill Magness, Chief Counsel, Office of Policy Development, PUC
All Parties of Record to Consolidated arbitration proceedings (facsimile)

**ELECTRONIC INTERFACES FOR
PRE-ORDER AND ORDERING CAPABILITIES FOR
UNE COMBINATIONS (PLATFORM)¹**

FUNCTION	ARBITRATION- ORDERED SWBT AVAILABILITY	COMMENTS
PRE-ORDER		
Address Verification	6/1/97	
Service/Features Availability	6/1/97	
Telephone Number Assignment	6/1/97	
Dispatch Schedule	6/1/97	SWBT is proposing not to provide electronically
Due Date	6/1/97	SWBT is proposing not to provide electronically
Customer Service Record (CSR)	6/1/97	
POTS ORDERING & PROVISIONING		
Migration (Convert Customer As Is)	6/1/97	
Migration With Changes (Convert with changes)	6/1/97	
- Add/Disc Class Features	6/1/97	
- Add/Disc Blocking (1+, 0+, 011)	6/1/97	
- PIC and PIC Freeze	6/1/97	
- Add/Disc Essential Lines	6/1/97	
- Add/Disc Additional Lines	6/1/97	
- Directory Listing Changes	6/1/97	
Partial Migration (Line/WTN vs. Account Level)	6/1/97	
New Connects		
- Single Line	6/1/97	
- Multi-Line (Less Than 30 Lines)	6/1/97	
- Projects (Large Job - add'l facilities/ coordinated work effort required - need SWBT criteria)	6/1/97	
Disconnects	6/1/97	
Change Orders		
- Add/Disc Class Features	6/1/97	
- Simple Number Change	6/1/97	
- Add/Disc Blocking	6/1/97	
- PIC and Local PIC Change	6/1/97	
- Add/Disc Essential Lines	6/1/97	

**ELECTRONIC INTERFACES FOR
FOR PRE-ORDER AND ORDERING CAPABILITIES FOR
UNE COMBINATIONS (PLATFORM)**

FUNCTION	ARBITRATION- ORDERED SWBT AVAILABILITY	COMMENTS
- Add/Disc Additional Lines	6/1/97	
- Directory Listing Changes -	6/1/97	
- Suspend/Restore Non-Payment	6/1/97	
- Suspend/Restore Vacation Svc.	6/1/97	
Records Only Order	6/1/97	
T&F Order	6/1/97	
NON-POTS SERVICE ORDERS		
PBX Trunks	6/1/97	
DID Trunks	6/1/97	
Plexar	6/1/97	
Digiline/ISDN	6/1/97	
Semi-Public Phones	6/1/97	
MegaLink (T1.5)	6/1/97	
OTHER - SERVICE ORDER COMPONENTS		
Multi-Line Hunting	6/1/97	
Preferential Hunting	6/1/97	
Transfer of Calls - Network Intercept	6/1/97	
Toll Billing Exception (alternatively billed calls)	6/1/97	
Handicap Services	6/1/97	
ComCall	6/1/97	
Future Expected Delivery Date (EDD)	6/1/97	
Conversion When Final Bill Address Is Foreign PO	6/1/97	
DIRECTORY LISTINGS		
Directory Listing (Straight Line)		
- White	6/1/97	
- Yellow	N/A	

**ELECTRONIC INTERFACES FOR
FOR PRE-ORDER AND ORDERING CAPABILITIES FOR
UNE COMBINATIONS (PLATFORM)**

FUNCTION	ARBITRATION- ORDERED SWBT AVAILABILITY	COMMENTS
Directory Listing Other Than Straight Line		
– White	6/1/97	
– Yellow	N/A	
Directory Order Changes Prior to Publishing		
– White	N/A	
– Yellow	N/A	
Directory White Pages (Non-SWBT Areas)	N/A	
Directory Expedite	N/A	
– White	N/A	
– Yellow	N/A	
POST SERVICE ORDER EDI TRANSACTIONS		
Supplemental Orders	6/1/97	
Firm Order Confirmation (FOC)	6/1/97	
Jeopardies/Missed Appointments	6/1/97	
Rejects	6/1/97	
Order Completion	6/1/97	

¹ Availability of these ordering and provisioning capabilities for UNE combinations (platform) will also necessarily address the capabilities required for ordering and provisioning individual elements.

ATTACHMENT 15



Rian J. Wren
Vice President
Southwest States
Local Services Organization

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April 3, 1997

Mr. Stephen Carter, Vice President
General Manager Special Markets
Southwestern Bell Telephone Company
One Bell Center, Suite 4110
St. Louis, MO 63101

Dear Stephen:

I have invested an enormous amount of personal time over the last several weeks to understand SWBT's corporate policies associated with Unbundled Network Elements (UNEs). Based on my understanding of SWBT's policy positions, I am very concerned about the manner in which UNE will be made available by SWBT. SWBT's current policies will place LSPs in a position of providing local service that 1) will unnecessarily cause customer service interruptions and dissatisfaction; 2) is less than equal from an operational capability perspective to what SWBT provides itself; and 3) is priced in such a manner that is not based on cost and is therefore cost prohibitive to competitors.

My concerns are based on the following:

Operational and pricing issues resulting from SWBT's decision to treat UNEs as design services.

The following refer to cases where AT&T chooses to provide local service to existing SWBT customers or existing AT&T resale customers through the purchase of UNEs where no physical network modifications are required. SWBT's policy decision to treat all local services provided via UNE as design services (including POTS which accounts for approximately 90% of the services available today), will result in the following negative impacts to customers:

- End-user customer service will be interrupted for up to 30 minutes in order for SWBT to install SMAS test points at its central office. It is our understanding that testing for POTS technically can be performed via LMOS and as a result this is unnecessary;

-2-

- AT&T will lose the mechanized loop testing capabilities for POTS to isolate customer reported troubles while the customer is online, similar to what SWBT can perform for its customers. AT&T will be required to contact SWBT and request that SMAS testing be initiated in order for isolation to be performed. This cannot be performed while AT&T has a customer on line;
- AT&T and its end-users will be subject to additional unreasonable non-recurring costs for the SMAS test point installation (e.g., NRCs of \$41.07 for the loop, \$78.60 for the switch port in addition to the service order charge of \$60, even for existing customers).
- AT&T will lose the real-time capabilities available through the Datagate pre-ordering interface to obtain due dates and schedule appointments for dispatch. SWBT is requiring that AT&T quote standard design service intervals for UNE customers that are significantly longer than those available real-time via Datagate. This is the case even in those instances where the customer is simply wanting to change local service providers.

The following SWBT positions will place restrictions on the use of UNEs:

a) SWBT's position that intraLATA toll is not available via UNE.

It remains AT&T's position that in a UNE environment, AT&T is entitled to the use of UNE to provide all telecommunications services to the end-user customer including toll and exchange access services. To that end, if AT&T purchases a loop from SWBT, it is entitled to the end-user customer revenue and access revenues (where access is applicable) for all calls originated from and terminated to an AT&T UNE end-user customer loop. AT&T does not agree with SWBT's position that intraLATA toll is not included with UNE prior to the implementation of dialing parity and that it will only be available to AT&T at a rate equal to the retail rate minus the applicable wholesale discount when SWBT provides the local switching elements or when AT&T provides the local switching element itself. AT&T believes all of that is plainly inconsistent with SWBT's unbundling obligations.

b) SWBT's position that it is entitled to interstate CCL and RIC and intrastate access.

From an interstate perspective, I believe that the provisions of the FCC Order that made the CCL and RIC available to the ILEC (on an interim basis, not beyond June of 1997) were stayed at the 8th circuit. As a result, it is my understanding that the ILEC is not entitled to the CCL and RIC, and that the ILEC is only entitled to the cost-based rates associated with the unbundled elements. From an intrastate perspective, intrastate access entitlement will be based on the individual state Arbitration Awards and Access Reform decisions. As an example, SWBT would not be entitled to the CCLC or RIC for intrastate minutes traversing over its local switch in an unbundled elements environment after June 13, 1997 or the earlier of the other provisions outlined by the Texas PUC.

-3-

c) SWBT's position that tariffed services cannot be interconnected with UNEs.

As we discussed during our March 19, 1997 conference call, we disagree with SWBT's policy position that restrictions can be placed on the interconnection of services we purchase from SWBT tariffs with the UNEs we purchase from SWBT or provide ourselves. We are uncertain at this time as to whether or not SWBT's position even places AT&T in a position whereby customers served via UNE will be able to complete long distance calls. I believe that Gary Juhl and Al Todd were going to consult with others internally at SWBT and clarify SWBT's position on this. It is important to note that AT&T fully expects that SWBT and AT&T will jointly provide access services to IXCs in situations where one party may provide the unbundled switching elements and the other provide dedicated transport under a meet point billing arrangement. Frankly, this position puzzles me based on your early negotiations position that certain elements requested by AT&T could be purchased via your access tariffs and others would be made available by SWBT as UNEs.

Based on the policy areas outlined above, it is clear to us that SWBT does not intend to provide UNE in the manner required by the Federal Telecommunications Act. Our analysis concludes that operational interfaces will be made available at a level that is less than equal in functionality in comparison to what SWBT provides itself, customer service will be unnecessarily interrupted, and that SWBT pricing policies will create a cost-prohibitive UNE environment (e.g., intraLATA toll, access entitlement, introduction of unnecessary NRCs, etc.).

Stephen, it is important that we clearly understand your positions on these critical UNE issues for Oklahoma as well as for the other four states of Texas, Missouri, Kansas and Arkansas. Please advise me as to whether or not we have misunderstood any of your positions as I have outlined them herein and whether or not SWBT's positions are consistent across its five state territory. If there are misunderstandings, please clarify such so that we have a solid understanding of your position and the impact it will have on the establishment of a competitive UNE environment.

I appreciate your review and look forward to receiving your response as quickly as possible. If you have any questions or wish to discuss these areas further with me, please feel free to contact me at (972) 778-2595.

Sincerely,



Rian Wren
Vice President SW States - LSO

ATTACHMENT 16

Art. 1446c-0

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(j) This section does not:

(1) prohibit a cooperative from filing for a new service or rate change under another applicable section of this Act; or

(2) affect the application of other provisions of this Act not directly related to ratemaking or the authority of the commission to require the cooperative to file reports as required under this Act, Section 3.213(j) of this Act, or under the rules adopted by the commission.

(k) Notwithstanding any other provision of this section, the commission may conduct a review in accordance with Section 3.210 of this Act.

Rates for Areas Not Within Municipality

Sec. 3.214. Public utility rates for areas not within any municipality may not exceed without commission approval 115 percent of the average of all rates for similar services of all municipalities served by the same utility within the same county.

Unreasonable Preference or Prejudice as to Rates or Services

Sec. 3.215. A public utility may not, as to rates or services, make or grant any unreasonable preference or advantage to any corporation or person within any classification or subject any corporation or person within any classification to any unreasonable prejudice or disadvantage. A public utility may not establish and maintain any unreasonable differences as to rates of service either as between localities or as between classes of service.

Equality of Rates and Services

Sec. 3.216. (a) A public utility may not, directly or indirectly, by any device whatsoever or in any manner, charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered by the utility than that prescribed in the schedule of rates of the public utility applicable thereto when filed in the manner provided in this Act, nor may any person knowingly receive or accept any service from a public utility for a compensation greater or less than that prescribed in the schedules.

(b) Nothing in this Act shall prevent a cooperative corporation from returning to its members the whole or any part of the net earnings resulting from its operations in proportion to their purchases from or through the corporation.

Discrimination; Restriction on Competition

Sec. 3.217. A public utility may not discriminate against any person or corporation that sells or leases equipment or performs services in competition with the public utility, nor may any public utility engage in any other practice that tends to restrict or impair such competition.

Telecommunications Utility Providing Service to the State; Delinquent Payment Charges

Sec. 3.218. A telecommunications utility providing any service to the state, including service to an agency in any branch of state government, may not charge a fee, penalty, interest, or other charge for delinquent payment of a bill for that service.

IntraLATA Calls

Sec. 3.219. (a) Except as provided by Subsection (b) of this section, while any local exchange company in this state is prohibited by federal law from providing interLATA telecommunications services, the local exchange companies in this state designated or de facto authorized to receive "0+" and "1+" dialed intraLATA calls shall be exclusively designated or authorized to receive those calls.

(b) A telecommunications utility operating under a certificate of operating authority or service provider certificate of operating authority to the extent not restricted by Section 3.2532(f) of this Act is de facto authorized to receive "0+" and "1+" dialed intraLATA calls on the date on which the utility receives its certificate.

(c) Effective as of the time all local exchange companies are allowed by federal law to provide interLATA telecommunications services, the commission shall ensure that customers may designate a provider of their choice to carry their "0+" and "1+" dialed intraLATA calls and that equal access in the public network is implemented such that the provider may carry such calls.

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new service or rate change under another

the Act not directly related to ratemaking cooperative to file reports as required under the rules adopted by the commission. In action, the commission may conduct a

Within Municipality

Within any municipality may not exceed average of all rates for similar services of all the same county.

As to Rates or Services

For services, make or grant any unreasonable person within any classification or subject to any unreasonable prejudice or disadvantage. Maintain any unreasonable differences as to between classes of service.

and Services

Directly or indirectly, by any device whatsoever or receive from any person a greater or less rendered by the utility than that prescribed in the manner provided in the schedules.

Cooperative corporation from returning to its earnings resulting from its operations in proportion to

Interference with Competition

Interfere against any person or corporation that in competition with the public utility, nor may act that tends to restrict or impair such

Due to the State; Delinquent Payment Charges

Providing any service to the state, including government, may not charge a fee, penalty, or cost of a bill for that service.

Long Distance Calls

Under section (b) of this section, while any local telephone company is prohibited from providing interLATA telephone service in this state designated or de facto as a LATA calls shall be exclusively designated

Under a certificate of operating authority or authority to the extent not restricted by Section 3.251, receive "0+" and "1+" dialed intraLATA calls or interstate.

Telephone companies are allowed by federal law to receive the commission shall ensure that customers are their "0+" and "1+" dialed intraLATA calls is supplemented such that the provider may carry

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SUBTITLE F. CERTIFICATES OF CONVENIENCE AND NECESSITY

Certificate Required

Sec. 3.251. (a) A public utility may not in any way render service directly or indirectly to the public under any franchise or permit without first having obtained from the commission a certificate that the present or future public convenience and necessity require or will require such installation, operation, or extension.

(b) Except as otherwise provided in this subtitle, a public utility may not furnish, make available, render, or extend retail public utility service to any area to which retail utility service is being lawfully furnished by another public utility, without first having obtained a certificate of public convenience and necessity that includes the area in which the consuming facility is located.

(c) A person may not provide local exchange telephone service, basic local telecommunications service, or switched access service without a certificate of convenience and necessity, a certificate of operating authority, or a service provider certificate of operating authority.

(d) A municipality may not receive a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority under this Act. In addition, a municipality or municipal electric system may not offer for sale to the public, either directly or indirectly through a telecommunications provider, a service for which a certificate is required or any non-switched telecommunications service to be used to provide connections between customers' premises within the exchange or between a customer's premises and a long distance provider serving the exchange.

Exceptions

Sec. 3.252. (a) A telecommunications utility is not required to secure a certificate of public convenience and necessity, certificate of operating authority, or service provider certificate of operating authority for:

(1) an extension into territory contiguous to that already served by it and not receiving similar service from another telecommunications utility and not within the certificated area of another telecommunications utility;

(2) an extension within or to territory already served by it or to be served by it under a certificate of public convenience and necessity, certificate of operating authority, or service provider certificate of operating authority;

(3) operation, extension, or service in progress on September 1, 1975; or

(4) interexchange telecommunications service, non-switched private line service, shared tenant service, specialized communications common carrier service, commercial mobile service, or operator service as defined by Section 3.052(a) of this Act.

(b) Any extensions allowed by Subsection (a) of this section shall be limited to devices for interconnection of existing facilities or devices used solely for transmitting telecommunications utility services from existing facilities to customers of retail utility service.

Application; Maps; Evidence of Consent

Sec. 3.253. (a) A public utility shall submit to the commission an application to obtain a certificate of public convenience and necessity or an amendment thereof.

(b) On or before 90 days after September 1, 1975, or at a later date on request in writing by a public utility when good cause is shown, or at such later dates as the commission may order, each public utility shall file with the commission a map or maps showing all its facilities and illustrating separately facilities for transmission and distribution of its services.

(c) Each applicant for a certificate shall file with the commission such evidence as is required by the commission to show that the applicant has received the required consent, franchise, or permit of the proper municipality or other public authority.

Certificate of Operating Authority

Sec. 3.2531. (a) In lieu of applying for a certificate of convenience and necessity, an applicant may apply for a certificate of operating authority.

(b) An application for a certificate of operating authority shall specify whether the applicant is seeking a facilities based certificate of operating authority under this section or a

service provider certificate of operating authority under Section 3.2532. When an application for a certificate of operating authority or service provider certificate of operating authority is filed, the commission shall give notice of the application to interested parties and, if requested, shall fix a time and place for a hearing and give notice of the hearing. Any person interested in the application may intervene at the hearing.

(c) If seeking a facilities based certificate of operating authority, the applicant must include in the application a proposed build-out plan demonstrating how the applicant will deploy its facilities throughout the geographic area of its certificated service area over a six-year period. The commission may issue rules for a holder of a certificate of operating authority with respect to the time within which the holder must be able to serve customers, except that a holder must serve customers within a build-out area within 30 days of the date of a customer request for service. The commission may not require a holder to place "drop" facilities on every customer's premises or to activate fiber optic facilities in advance of customer request as part of the build-out requirements. The plan required by this subsection must meet the following conditions:

(1) 10 percent of the area to be served must be served with facilities other than the facilities of the incumbent local exchange company by the end of the first year;

(2) 50 percent of the area to be served must be served with facilities other than the facilities of the incumbent local exchange company by the end of the third year; and

(3) all of the area to be served must be served with facilities other than the facilities of the incumbent local exchange company by the end of the sixth year.

(d) The build-out plan may permit not more than 40 percent of the applicant's service area to be served by resale of the incumbent local exchange company's facilities under the tariff required to be approved in Section 3.453 of this Act, except that during the six years immediately following the grant, a holder of a certificate of operating authority may extend its service by resale only within the area it is obligated to serve under the build-out plan approved by the commission and to the distant premises of one of its multi-premises customers beyond that build-out area but within its certificated service area. The 40-percent resale limitation applies to incumbent local exchange facilities resold by a holder of a certificate of operating authority as part of the provision of local exchange telephone service, regardless of whether the facilities are purchased directly by the certificate of operating authority holder from the incumbent local exchange company or purchased by an intermediary carrier from the incumbent local exchange company and then provided to the certificate of operating authority holder for resale. In no event may an applicant use commercial mobile service to meet the build-out requirement imposed by this section, but an applicant may use PCS or other wireless technology licensed or allocated by the Federal Communications Commission after January 1, 1995, to meet the build-out requirement.

(e) A certificate of operating authority shall be granted within 60 days after the date of the application on a nondiscriminatory basis after consideration by the commission of factors such as the technical and financial qualifications of the applicant and the applicant's ability to meet the commission's quality of service requirements. The commission may extend the 60-day period on good cause shown. In an exchange of an incumbent local exchange company serving fewer than 31,000 access lines, the commission shall also consider:

(1) the effect of granting the certificate on any public utility already serving the area and on the utility's customers;

(2) the existing utility's ability to provide adequate service at reasonable rates;

(3) the impact of the existing utility's ability as the provider of last resort; and

(4) the ability of the exchange, not the company, to support more than one provider of service.

(f) In addition to the factors prescribed by Subsection (e) of this section, the commission shall consider the adequacy of the applicant's build-out plan in determining whether to grant the application. The commission may administratively and temporarily waive compliance with the six-year build-out plan on a showing of good cause. The holder of a certificate shall file periodic reports with the commission demonstrating compliance with the plan approved by the commission, including the requirement that not more than 40 percent of the service area of a new certificate may be served by resale of the facilities of the incumbent local exchange company.